

Remarks

Claims 23-25, 27, 28, and 30-33 are now pending in this application. Applicants have amended claims 23, 27, 28, 30 and 31 and cancelled claims 26, 29, and 34-43 to clarify the claimed invention. Applicants respectfully request favorable reconsideration of this application.

Applicants have amended the specification to change "alternate" to "alternating" and to clarify page 6, line 16 and page 7, line 6. Applicants inserted headings in the specification in the preliminary amendment submitted with the application as filed. Applicants have also added the heading "Summary of the invention" with the present amendment. Accordingly, Applicants respectfully request withdrawal of the objections to the disclosure.

The Examiner rejected claims 23-25, 29-31, and 39-41 under 35 U.S.C. § 102(e) as being anticipated by U.S. patent publication 2007/0176773 to Smolander et al. The Examiner rejected claims 26-28 and 34-38 under 35 U.S.C. § 103(a) as being unpatentable over Smolander et al. in view of U.S. patent 6,204,764 to Maloney.

Smolander et al. does not disclose the invention recited in amended independent claim 23 since, among other things, Smolander et al. does not disclose a sensor that is capacitively or inductively coupled with an LC resonator without forming a direct galvanic contact. Rather, as discussed in the present specification as page 2, line 32, through page 3, line 25, Smolander et al. discloses a structure in which the entire indicator formed by the LC circuit and the sensor element is placed inside the package, as described in paragraph 0041 of Smolander et al., and the

sensor element is coupled to the resonance circuit essentially galvanically, that is, by bonding or gluing with a conductive adhesive, as discussed by Smolander et al. in paragraph 0036. This is the opposite of the claimed invention.

The Examiner asserts that at paragraph 0035 Smolander et al. discloses a magnetic coupling M between coil 13 of the sensor and antenna coil 5 of the LC resonator. However, the magnetic coupling M occurs between the sensor element 22 and the coil 5 of the reader device 24, as described in paragraph 0038 and as shown in Fig. 3. On the other hand, the invention recited in claim 23 includes capacitive or inductive coupling between the coil and the sensor element forming the indicator. Thus, while Smolander et al. discloses a non-galvanic connection between the indicator and the reader device, the claimed invention includes a non-galvanic connection between the LC resonator and the sensor element within the indicator.

In view of the above, Smolander et al. does not disclose all elements of the invention recited in claim 23 and claims 24, 25, 27, 28, and 30-33, which depend from claim 23. Since Smolander et al. does not disclose all elements of the invention recited in claims 23-25, 27, 28, and 30-33, the present invention, as recited in claims 23-25, 27, 28, and 30-33, is not properly rejected under 35 U.S.C. § 102(b). For an anticipation rejection under 35 U.S.C. § 102(b) no difference may exist between the claimed invention and the reference disclosure. See *Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q. 841 (C.A.F.C. 1984).

Along these lines, anticipation requires the disclosure, in a cited reference, of each and every recitation, as set forth in the claims. See *Hodosh v. Block Drug Co.*, 229 U.S.P.Q. 182 (Fed. Cir.

1986); *Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir. 1985); *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986); and *Akzo N.V. v. U.S. International Trade Commissioner*, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986).

The combination of Smolander et al. and Maloney does not suggest the invention recited in claims 26-28 since, among other things, the combination does not suggest a sensor that is capacitively or inductively coupled with an LC resonator without forming a direct galvanic contact. This is discussed with respect to Smolander et al. above. Maloney suggests capacitive coupling among plates of an antenna to convey radio transmissions. The combination of Smolander et al. and Maloney does not suggest capacitive coupling between a coil and a sensor element forming an indicator. Therefore, the combination of Smolander et al. and Maloney does not suggest the invention recited in claims 26-28. Claims 34-38 are no longer pending.

In view of the above, the references relied upon in the office action do not disclose or suggest patentable features of the claimed invention. Therefore, the references relied upon in the office action do not anticipate the claimed invention and do not make the claimed invention obvious. Accordingly, Applicants submit that the claimed invention is patentable over the cited references and respectfully request withdrawal of the rejections based on the cited references.

If an interview would advance the prosecution of this application, Applicants respectfully urge the Examiner to contact the undersigned at the telephone number listed below.

The undersigned authorizes the Commissioner to charge fee insufficiency and credit

overpayment associated with this communication to Deposit Account No. 22-0261.

Respectfully submitted,

Date: November 10, 2008

/Eric J. Franklin/
Eric J. Franklin, Reg. No. 37,134
Attorney for Applicants
Venable LLP
575 Seventh Street, NW
Washington, DC 20004
Telephone: 202-344-4936
Facsimile: 202-344-8300